

HB 1453

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1                   A bill to be entitled  
2           An act relating to construction liens and bonds; amending  
3           s. 255.05, F.S.; requiring that a contractor record in the  
4           official records a payment bond for a public works  
5           construction project; requiring that the bond number be  
6           stated on the first page of the bond; prohibiting the  
7           issuing authority for a building permit or a private  
8           provider performing inspection services from inspecting  
9           the property being improved until certain documents are  
10          filed; providing that a payment and performance bond is  
11          not required for certain contracts; authorizing certain  
12          entities to exempt certain contracts from the requirement  
13          for a payment and performance bond; requiring the  
14          contractor to serve a notice of contest of claim against  
15          the payment bond; providing the form and content for a  
16          notice to contractor; providing for a sworn notice of  
17          nonpayment and providing the form and content of the  
18          notice; prohibiting a public authority from withholding  
19          payment to a contractor when the contractor has provided a  
20          payment bond; amending s. 713.015, F.S.; requiring that a  
21          contractor provide an owner with a general statement of an  
22          owner's rights and responsibilities under Florida's  
23          Construction Lien Law; requiring that a signed copy of the  
24          statement be filed with the building permit application;  
25          specifying the form and content of the statement; deleting  
26          the requirement that notice be included in the direct  
27          contract between the contractor and the owner; amending s.  
28          713.06, F.S.; revising the form of a notice for liens of

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 persons not in privity with the owner; amending s. 713.13,  
30 F.S.; revising the form of the notice of commencement;  
31 requiring a payment bond to be attached to a notice of  
32 commencement if a project is bonded; amending s. 713.135,  
33 F.S.; revising the warning to the owner printed on certain  
34 permit cards; deleting a requirement relating to filing a  
35 notice of commencement before certain inspections;  
36 revising the warning to the owner provided on a building  
37 permit form; creating s. 713.137, F.S.; prohibiting the  
38 authority issuing a building permit or a private provider  
39 performing inspection services from inspecting an  
40 improvement until certain documents have been filed and  
41 the information in the notice of commencement meets  
42 certain standards; providing exceptions; amending s.  
43 713.16, F.S.; revising requirements for demands for a copy  
44 of a construction contract and a statement of account;  
45 authorizing a lienor who submits or mails a claim of lien  
46 to the clerk for recording to make certain demands to an  
47 owner for certain written statements; providing  
48 requirements for such written demands; amending s. 713.18,  
49 F.S.; providing additional methods by which certain items  
50 may be served; specifying the information required on  
51 certain written instruments under certain circumstances;  
52 amending s. 713.22, F.S.; requiring that the contractor  
53 serve a notice of contest of lien; amending s. 713.23,  
54 F.S.; providing for a sworn notice of nonpayment and  
55 providing the form and content of the notice; requiring  
56 that the contractor serve a notice of contest of claim

57 |           against the payment bond and a notice of bond; providing  
58 |           an effective date.

59 |

60 | Be It Enacted by the Legislature of the State of Florida:

61 |

62 |           Section 1. Subsection (1) and paragraph (a) of subsection  
63 |           (2) of section 255.05, Florida Statutes, are amended, and  
64 |           subsection (11) is added to that subsection, to read:

65 |           255.05 Bond of contractor constructing public buildings;  
66 |           form; action by materialmen.—

67 |           (1) ~~(a)~~ Any person entering into a formal contract with the  
68 |           state or any county, municipality ~~city~~, or political subdivision  
69 |           thereof, or other public authority or private entity, for the  
70 |           construction of a public building, for the prosecution and  
71 |           completion of a public work, or for repairs upon a public  
72 |           building or public work must ~~shall be required~~, before  
73 |           commencing the work or before recommencing the work after a  
74 |           default or abandonment, ~~to~~ execute and, deliver to the public  
75 |           owner, ~~and record in the public records of the county where the~~  
76 |           ~~improvement is located~~, a payment and performance bond with a  
77 |           surety insurer authorized to do business in this state as  
78 |           surety.

79 |           (a) A public entity may not require a contractor to secure  
80 |           a surety bond under this section from a specific agent or  
81 |           bonding company.

82 |           (b) The bond must state on its front page: the name,  
83 |           principal business address, and phone number of the contractor,  
84 |           the surety, the owner of the property being improved, and, if

85 different from the owner, the contracting public entity; the  
 86 contract number assigned by the contracting public entity; the  
 87 bond number assigned by the surety; and a description of the  
 88 project sufficient to identify it, such as a legal description  
 89 or the street address of the property being improved, and a  
 90 general description of the improvement.

91 (c) Such bond shall be conditioned upon the contractor's  
 92 performance of the construction work in the time and manner  
 93 prescribed in the contract and promptly making payments due to  
 94 all persons defined as a lienor in s. 713.01 who furnish labor,  
 95 services, or materials for the prosecution of the work provided  
 96 for in the contract.

97 (d) The contractor shall record the payment and  
 98 performance bond upon issuance in the official records of the  
 99 county in which the improvement will be located.

100 (e)1. The issuing authority for the building permit, or a  
 101 private provider performing inspection services, may not inspect  
 102 the property being improved until:

103 a. The issuing authority has a copy of the contractor's  
 104 recorded payment and performance bond on file; or

105 b. The contracting public entity has filed with the  
 106 issuing authority a notarized statement stating that the  
 107 contract is exempt from the requirement for a payment and  
 108 performance bond as provided in this section.

109 2. This paragraph does not apply to inspections for the  
 110 installation of temporary electrical service or other temporary  
 111 utility service, land clearing, or other preliminary site work.

112 (f) ~~Any claimant may apply to~~ The governmental entity

113 having charge of the work shall provide a certified copy for  
 114 ~~copies~~ of the contract and bond to any claimant upon request and  
 115 ~~shall thereupon be furnished with a certified copy of the~~  
 116 ~~contract and bond.~~ The claimant has ~~shall have~~ a right of action  
 117 against the contractor and surety for the amount due him or her,  
 118 including unpaid finance charges due under the claimant's  
 119 contract. Such action shall not involve the public authority in  
 120 any expense.

121 (g)1. A payment and performance bond is not required for a  
 122 contract with the state for \$100,000 or less. ~~When such work is~~  
 123 ~~done for the state and the contract is for \$100,000 or less, no~~  
 124 ~~payment and performance bond shall be required.~~

125 2. ~~At the discretion of~~ The official or board awarding a  
 126 ~~such~~ contract ~~when such work is done~~ for a any county,  
 127 municipality ~~city~~, political subdivision, or public authority  
 128 may exempt a contract, ~~any person entering into such a contract~~  
 129 ~~which is~~ for \$200,000 or less from the requirement for a ~~may be~~  
 130 ~~exempted from executing the~~ payment and performance bond.

131 3. ~~When such work is done for the state,~~ The Secretary of  
 132 Management Services may delegate to a state agency ~~agencies~~ the  
 133 authority to exempt ~~any person entering into such a contract for~~  
 134 ~~amounting to~~ more than \$100,000 but less than \$200,000 from the  
 135 requirement for a ~~executing the~~ payment and performance bond. If  
 136 ~~In the event~~ such exemption is granted, the officer or officials  
 137 are ~~shall not be~~ personally liable to a person who suffers a  
 138 ~~persons suffering loss due to the~~ because of granting such  
 139 exemption. The Department of Management Services shall maintain  
 140 information on the number of requests by state agencies for

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141 delegation of authority to waive the bond requirements by agency  
 142 and project number and whether any request for delegation was  
 143 denied and the justification for the denial.

144 (h) The persons who may be protected by a payment and  
 145 performance bond for payments due to them for furnishing labor,  
 146 services, or materials for the prosecution of the work are  
 147 limited to those persons defined as a lienor in s. 713.01. A ~~Any~~  
 148 ~~provision of~~ in a payment and performance bond furnished for a  
 149 public works contract ~~work contracts~~ as provided by this  
 150 subsection which further restricts the classes of persons ~~as~~  
 151 ~~defined in s. 713.01~~ protected by the bond or the venue of any  
 152 proceeding relating to such bond is unenforceable.

153 (i) ~~(b)~~ The Department of Management Services shall adopt  
 154 rules with respect to all contracts for \$200,000 or less, to  
 155 provide:

156 1. Procedures for retaining up to 10 percent of each  
 157 request for payment submitted by a contractor and procedures for  
 158 determining disbursements from the amount retained on a pro rata  
 159 basis to laborers, materialmen, and subcontractors, as defined  
 160 in s. 713.01.

161 2. Procedures for requiring certification from laborers,  
 162 materialmen, and subcontractors, as defined in s. 713.01, before  
 163 ~~prior to~~ final payment to the contractor, that they do not ~~that~~  
 164 ~~such laborers, materialmen, and subcontractors~~ have a claim ~~no~~  
 165 ~~claims~~ against the contractor resulting from the completion of  
 166 the work provided for in the contract.

167

168 The state is ~~shall~~ not ~~be~~ held liable to any laborer,

169 materialman, or subcontractor for any amounts greater than the  
 170 pro rata share as determined under this section.

171 (j)~~(e)~~1. The amount of the bond shall equal the contract  
 172 price, except that for a contract in excess of \$250 million, if  
 173 the state, county, municipality, political subdivision, or other  
 174 public entity finds that a bond in the amount of the contract  
 175 price is not reasonably available, the public owner shall set  
 176 the amount of the bond at the largest amount reasonably  
 177 available, but not less than \$250 million.

178 2. For construction-management or design-build contracts,  
 179 if the public owner does not include in the bond amount the cost  
 180 of design or other nonconstruction services, the bond may not be  
 181 conditioned on performance of such services or payment to  
 182 persons furnishing such services. Notwithstanding paragraph (h)  
 183 ~~(a)~~, such a bond may exclude persons furnishing such services  
 184 from the classes of persons protected by the bond.

185 (2) (a)1. If a claimant is no longer furnishing labor,  
 186 services, or materials on a project, a contractor or the  
 187 contractor's ~~agent or~~ attorney may elect to shorten the  
 188 ~~prescribed time in this paragraph~~ within which an action to  
 189 enforce any claim against a payment bond must ~~provided pursuant~~  
 190 ~~to this section may~~ be commenced by recording in the clerk's  
 191 office a notice in substantially the following form:

192 NOTICE OF CONTEST OF CLAIM  
 193 AGAINST PAYMENT BOND

194  
 195 To: ...(Name and address of claimant)...

196





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To: ...(Name and address of contractor)...

This notice is to inform you that the claimant identified below intends to look to the contractor's bond to secure payment for the furnishing of materials or services for the improvement of real property. These materials or services have been furnished or are being furnished to: ...(property description)..., which is owned by: ...(owner's name and address).... A general description of the materials or services is as follows: ...(general description of materials or services).... The materials or services were ordered by: ...(claimant's customer)....

...(name of claimant)...  
...(signature of claimant or claimant's representative).....(date)...  
...(claimant's address)...

b. A claimant who is not in privity with the contractor and who has not received payment for his or her labor, services, or materials must serve on ~~shall deliver to~~ the contractor and ~~to~~ the surety written notice of the performance of the labor or services, or the delivery of ~~the~~ materials, ~~or supplies~~ and of the nonpayment. The notice of nonpayment must state, as of the date of the notice, the nature of the labor or services performed and to be performed, if any; the materials furnished; the materials to be furnished, if known; the amount paid on

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253 account to date; the amount due; the amount to become due, if  
254 known; and the date that the notice to contractor, if any, was  
255 served on the contractor. The notice of nonpayment must be a  
256 sworn statement and may be served at any time during the  
257 progress of the work or thereafter but not before 45 days after  
258 the first furnishing of labor, services, or materials, and not  
259 later than 90 days after the final furnishing of the labor,  
260 services, or materials by the claimant or, with respect to  
261 rental equipment, not later than 90 days after the date that the  
262 rental equipment was last on the job site available for use. Any  
263 notice of nonpayment served by a claimant who is not in privity  
264 with the contractor which includes sums for retainage must  
265 specify the portion of the amount claimed for retainage. For a  
266 claimant who is not in privity with the contractor, the service  
267 of the notice of nonpayment satisfies one of the two conditions  
268 precedent to bringing an action against the contractor or surety  
269 as provided in sub-subparagraph c., both with respect to the  
270 payment described in the notice of nonpayment, including unpaid  
271 finance charges due under the claimant's contract, and with  
272 respect to any other payments that become due to the claimant  
273 after the date of the notice of nonpayment. The time for serving  
274 a written notice of nonpayment is measured from the last day of  
275 furnishing labor, services, or materials by the claimant and may  
276 not be measured by other standards, such as the issuance of a  
277 certificate of occupancy or the issuance of a certificate of  
278 substantial completion. The failure of a claimant to receive  
279 retainage sums of 10 percent or less of the value of labor,  
280 services, or materials furnished by the claimant is not

281 considered a nonpayment requiring the service of the notice  
 282 provided under this sub-subparagraph. The notice of nonpayment  
 283 must be in substantially the following form:

285 NOTICE OF NONPAYMENT

287 To: ...(Name and address of contractor)...  
 288 ...(Name and address of surety)...

290 This notice is to inform you that, as of the date of this  
 291 notice, the claimant identified below has not been fully paid  
 292 for furnishing labor, services, or materials for an improvement  
 293 to real property. The labor, services, or materials have been  
 294 furnished to: ...(property description)..., which is owned by:  
 295 ...(owner's name and address).... A general description of the  
 296 labor, services, or materials is as follows: ...(general  
 297 description of labor, services, or materials).... The labor,  
 298 services, or materials were ordered by: ...(claimant's  
 299 customer)....

301 The amount paid by ...(claimant's customer)... as of the date of  
 302 this notice for the labor, services, or materials is \$..... The  
 303 total amount currently due and unpaid is \$....., with \$.... of  
 304 that amount attributable to retainage.

306 You are further notified that the claimant identified below  
 307 expects to furnish additional labor, services, or materials for  
 308 the improvement ordered by the same customer. A general

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309 description of the additional labor, services, or materials is  
 310 as follows: ...(general description of labor, services, or  
 311 materials).... The additional amount expected to become due is:  
 312 \$.....

313  
 314 If applicable, a notice to contractor pursuant to section  
 315 255.05(2)(a)2.a., Florida Statutes, was served on ...(name of  
 316 contractor)... on ...(date)....

317  
 318 ...(name of claimant)...  
 319 ...(signature of claimant or claimant's  
 320 representative).....(date)...  
 321 ...(claimant's address)...

322  
 323 Sworn to (or affirmed) and subscribed before me this .... day of  
 324 ...., ..(year).., by ...(name of person making statement)....

325 ...(Signature of Notary Public..... (Print, Type, or Stamp  
 326 Commissioned Name of Notary Public)...

327  
 328 Personally Known .... OR Produced ..... as identification.

329 c. An ~~Ne~~ action for ~~the~~ labor, services, or materials, ~~or~~  
 330 ~~supplies~~ may not be instituted against the contractor or the  
 331 surety unless the notice to contractor and the notice of  
 332 nonpayment ~~both notices~~ have been given, if required by this  
 333 section. Service of all notices or other instruments required or  
 334 permitted under this section shall ~~may~~ be made served in  
 335 accordance with s. 713.18. A claimant may not waive in advance  
 336 his or her right to bring an action under the bond against the

337 | surety. In any action brought to enforce a claim against a  
 338 | payment bond under this section, the prevailing party is  
 339 | entitled to recover a reasonable fee for the services of his or  
 340 | her attorney for trial and appeal or for arbitration, in an  
 341 | amount to be determined by the court, and the ~~which~~ fee must be  
 342 | taxed as part of the prevailing party's costs, as allowed in  
 343 | equitable actions. ~~The time periods for service of a notice of~~  
 344 | ~~nonpayment or for bringing an action against a contractor or a~~  
 345 | ~~surety shall be measured from the last day of furnishing labor,~~  
 346 | ~~services, or materials by the claimant and shall not be measured~~  
 347 | ~~by other standards, such as the issuance of a certificate of~~  
 348 | ~~occupancy or the issuance of a certificate of substantial~~  
 349 | ~~completion.~~

350 |       (11) If a contractor furnishes a payment and performance  
 351 | bond for a public works project under this section and has  
 352 | recorded the bond pursuant to paragraph (1) (d), the public  
 353 | authority may not condition its payments to the contractor on  
 354 | the production of a release, waiver, or like documentation from  
 355 | a claimant demonstrating that the claimant does not have an  
 356 | outstanding claim against the contractor, the surety, the bond,  
 357 | or the public authority for payments due on labor, services, or  
 358 | materials furnished on the public works project.

359 |       Section 2. Section 713.015, Florida Statutes, is amended  
 360 | to read:

361 |       713.015 General statement of owner's rights and  
 362 | responsibilities ~~Mandatory provisions for direct contracts.-~~

363 |       (1) For any direct contract greater than \$2,500 between an  
 364 | owner and a contractor, related to improvements to real property

365 consisting of single or multiple family dwellings up to and  
 366 including four units, the contractor must provide the owner with  
 367 a copy of the general statement of owner's rights and  
 368 responsibilities under Florida's Construction Lien Law as set  
 369 forth in subsection (2), which must be contain the following  
 370 notice provision printed in no less than 12-point, capitalized,  
 371 boldfaced type on the front page of the contract or on a  
 372 separate page, signed by the owner and dated, and submitted with  
 373 the original building permit application pursuant to s.  
 374 713.135.÷

375  
 376 ~~ACCORDING TO FLORIDA'S CONSTRUCTION LIEN LAW (SECTIONS 713.001-~~  
 377 ~~713.37, FLORIDA STATUTES), THOSE WHO WORK ON YOUR PROPERTY OR~~  
 378 ~~PROVIDE MATERIALS AND SERVICES AND ARE NOT PAID IN FULL HAVE A~~  
 379 ~~RIGHT TO ENFORCE THEIR CLAIM FOR PAYMENT AGAINST YOUR PROPERTY.~~  
 380 ~~THIS CLAIM IS KNOWN AS A CONSTRUCTION LIEN. IF YOUR CONTRACTOR~~  
 381 ~~OR A SUBCONTRACTOR FAILS TO PAY SUBCONTRACTORS, SUB-~~  
 382 ~~SUBCONTRACTORS, OR MATERIAL SUPPLIERS, THOSE PEOPLE WHO ARE OWED~~  
 383 ~~MONEY MAY LOOK TO YOUR PROPERTY FOR PAYMENT, EVEN IF YOU HAVE~~  
 384 ~~ALREADY PAID YOUR CONTRACTOR IN FULL. IF YOU FAIL TO PAY YOUR~~  
 385 ~~CONTRACTOR, YOUR CONTRACTOR MAY ALSO HAVE A LIEN ON YOUR~~  
 386 ~~PROPERTY. THIS MEANS IF A LIEN IS FILED YOUR PROPERTY COULD BE~~  
 387 ~~SOLD AGAINST YOUR WILL TO PAY FOR LABOR, MATERIALS, OR OTHER~~  
 388 ~~SERVICES THAT YOUR CONTRACTOR OR A SUBCONTRACTOR MAY HAVE FAILED~~  
 389 ~~TO PAY. TO PROTECT YOURSELF, YOU SHOULD STIPULATE IN THIS~~  
 390 ~~CONTRACT THAT BEFORE ANY PAYMENT IS MADE, YOUR CONTRACTOR IS~~  
 391 ~~REQUIRED TO PROVIDE YOU WITH A WRITTEN RELEASE OF LIEN FROM ANY~~  
 392 ~~PERSON OR COMPANY THAT HAS PROVIDED TO YOU A "NOTICE TO OWNER."~~

393 ~~FLORIDA'S CONSTRUCTION LIEN LAW IS COMPLEX, AND IT IS~~  
 394 ~~RECOMMENDED THAT YOU CONSULT AN ATTORNEY.~~

395 (2) The general statement of owner's rights and  
 396 responsibilities under Florida's Construction Lien Law must be  
 397 in substantially the following form, must include the  
 398 information contained in the following form, and must include a  
 399 copy of a notice of commencement as provided in s. 713.13(1).

400  
 401 GENERAL STATEMENT OF OWNER'S RIGHTS AND RESPONSIBILITIES  
 402 UNDER FLORIDA'S CONSTRUCTION LIEN LAW  
 403 (Required by Section 713.015, Florida Statutes)

404  
 405 ABOUT THIS DOCUMENT.—Florida law requires your contractor  
 406 to provide you with this document when you are contracting to  
 407 make improvements to real property. It is critical that you have  
 408 some understanding of Florida's construction lien and payment  
 409 laws and take appropriate steps to protect your investment and  
 410 fulfill your obligations to those who provide labor, services,  
 411 or materials for your project.

412  
 413 You must acknowledge that you have received and read this  
 414 document by signing on the signature page. The original signed  
 415 document must be delivered to the building permit authority,  
 416 along with the building permit application for your project.  
 417 Your building permit application will not be processed unless  
 418 this signed document is in the file. You need to retain a copy  
 419 of this document so that you can follow the procedures described  
 420 in the document and identify the proper statutory forms as you

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421 proceed with your construction project.

422

423 IT IS ALWAYS RECOMMENDED THAT YOU OBTAIN LEGAL ADVICE  
424 BEFORE UNDERTAKING REAL PROPERTY IMPROVEMENTS. IF YOU HAVE  
425 QUESTIONS REGARDING THE INFORMATION CONTAINED IN THIS DOCUMENT,  
426 SEEK THE ADVICE OF A FLORIDA CONSTRUCTION LAW ATTORNEY.

427

428 THE FLORIDA CONSTRUCTION LIEN LAW.—Part I of chapter 713,  
429 Florida Statutes (F.S.), governs private construction projects  
430 in this state. The complete text of this law can be found at  
431 www.leg.state.fl.us. This statement is a guide and does not take  
432 precedence over the language of Florida's Construction Lien Law.

433

434 Under this law, those who work on your property or provide  
435 materials or services and who are not paid in full have a right  
436 to enforce their claim for payment against your property. This  
437 claim is known as a construction lien. If your contractor or a  
438 subcontractor fails to pay subcontractors, sub-subcontractors,  
439 or material suppliers, those people who are owed money may look  
440 to your property for payment even if you have already paid your  
441 contractor in full. If you fail to pay your contractor, your  
442 contractor may also have a lien on your property. This means  
443 that if a valid lien is filed, your property could be sold  
444 against your will to pay for labor, services, or materials that  
445 your contractor or a subcontractor may have failed to pay. A  
446 contractor or subcontractor who files a lien on your property is  
447 called a lienor.

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449 FLORIDA LAW ALSO PROVIDES PROCEDURES TO PROTECT OWNERS FROM  
450 PAYING MORE THAN THE AMOUNT OF THEIR CONTRACT. IF YOU FOLLOW THE  
451 FOUR STEPS SET FORTH BELOW, YOU WILL PROTECT YOURSELF FROM VALID  
452 LIENS AGAINST YOUR PROPERTY, AND FROM PAYING TWICE FOR LABOR,  
453 SERVICES, OR MATERIALS FURNISHED FOR YOUR PROJECT.

454  
455 STEP 1 – THE NOTICE OF COMMENCEMENT.–An owner is required  
456 by law to complete, sign, and record in the public records a  
457 Notice of Commencement for all direct contracts that exceed  
458 \$2,500. The information provided in the recorded Notice of  
459 Commencement is relied upon by all parties who provide labor,  
460 services, or materials for your project. A copy of the statutory  
461 Notice of Commencement form required by s. 713.13, Florida  
462 Statutes, is attached to this document.

463  
464 If a lender is financing your project, the lender will  
465 assist you in completing the Notice of Commencement and is  
466 responsible for recording it in the public records. It is  
467 critical that your Notice of Commencement be recorded after any  
468 construction loan or mortgage documents are recorded. If you are  
469 not using a lender, preparing and recording the Notice of  
470 Commencement is your responsibility. The Notice of Commencement  
471 must be recorded before commencing construction and posted on  
472 your job site. For most projects, a copy of the recorded Notice  
473 of Commencement must be submitted to the building permit  
474 authority before the first building inspection.

475  
476 STEP 2 – MONITOR THE DOCUMENTS AND NOTICES YOU RECEIVE.–

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477 Pick up your certified mail. Most lien notices are sent by  
478 certified mail and you need to know who is providing labor,  
479 services, or materials for your project. The law provides that  
480 any properly addressed notices that are returned to the sender  
481 through no fault of the sender are considered received by you on  
482 the date sent, so failing to claim certified mail only hurts  
483 you.

484  
485 If you expect to be absent for periods of time during your  
486 project, you should have an attorney or other agent in a  
487 position of trust who understands the law handle these details  
488 for you. Make sure someone is receiving your mail and taking  
489 steps to obtain the necessary lien releases before making  
490 payments to your contractor. If you receive anything that you do  
491 not understand, seek the assistance of an experienced  
492 construction law attorney.

493  
494 STEP 3 – OBTAIN SIGNED LIEN WAIVERS EACH TIME YOU MAKE A  
495 PAYMENT TO YOUR CONTRACTOR.–Each time you pay your contractor  
496 you should obtain a Waiver and Release of Lien form from the  
497 contractor AND from anyone who has served you with a Notice to  
498 Owner. Make sure that each release waives lien rights against  
499 your project for work or materials furnished through the date of  
500 the work or materials that your payment covers. This date is  
501 probably not the date you are making the payment, but a date  
502 prior to the payment date through which labor, services, or  
503 materials have been billed.

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505 UNDER FLORIDA LAW, YOU HAVE THE RIGHT TO WITHHOLD PAYMENTS  
506 OWED TO THE CONTRACTOR UNTIL YOU HAVE BEEN PROVIDED WITH A  
507 WRITTEN WAIVER AND RELEASE OF LIEN UPON PROGRESS PAYMENT OR A  
508 WRITTEN WAIVER AND RELEASE OF LIEN UPON FINAL PAYMENT SHOWING  
509 THAT THE LIENOR'S CLAIM FOR PAYMENT HAS BEEN PAID.

510  
511 There are two statutory Waiver and Release of Lien forms  
512 that you should know about. The signed Waiver and Release of  
513 Lien Upon Progress Payment should be provided to you by your  
514 contractor, a subcontractor, or a material supplier each time  
515 you make a progress payment to your contractor. The signed  
516 Waiver and Release of Lien Upon Final Payment should be  
517 submitted by your contractor, the subcontractor, or the material  
518 supplier when they are finished furnishing all work or materials  
519 for your project and have received final payment. Once you  
520 receive a final waiver from the contractor, subcontractor, or  
521 material supplier, you should not need another waiver unless  
522 they are hired to do additional work.

523  
524 STEP 4 – OBTAIN A CONTRACTOR'S FINAL PAYMENT AFFIDAVIT  
525 BEFORE YOU MAKE FINAL PAYMENT TO YOUR CONTRACTOR.—In addition to  
526 obtaining Final Waiver and Release of Lien forms from the  
527 contractor and anyone who has served you with a Notice to Owner,  
528 you should obtain a Contractor's Final Payment Affidavit before  
529 you make final payment to your contractor. This sworn affidavit  
530 should reflect that everyone who supplied labor, services, or  
531 materials on your project has been paid in full or should list  
532 those subcontractors and suppliers who are still owed money.

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533 Make sure that anyone listed as not being paid in full is paid  
 534 before making final payment to your contractor. You have a right  
 535 to rely on the information contained in the sworn affidavit when  
 536 you make final payment to your contractor with respect to any  
 537 lienor who has not sent you a Notice to Owner. If a lienor has  
 538 sent you a Notice to Owner, you should obtain a Waiver and  
 539 Release of Lien Upon Final Payment from that lienor.

541 OWNER'S ACKNOWLEDGMENT AND RECEIPT

542  
 543 The undersigned owner(s) of Florida real property hereby  
 544 acknowledge that they are preparing to enter into a contract  
 545 with \_\_\_\_\_ for the  
 546 construction of real property improvements to the following  
 547 described property (insert address or legal description):

548 \_\_\_\_\_  
 549 \_\_\_\_\_

550 ...(Signature of Property Owner).....(Date)...  
 551 ...(Signature of Property Owner).....(Date)...

552  
 553 Attached Statutory Form: Notice of Commencement

554  
 555 ~~(2) (a) If the contract is written, the notice must be in~~  
 556 ~~the contract document. If the contract is oral or implied, the~~  
 557 ~~notice must be provided in a document referencing the contract.~~

558 (3) (b) The failure to provide such written notice does not  
 559 bar the enforcement of a lien against a person who has not been  
 560 adversely affected.

561           (4) ~~(e)~~ This section may not be construed to adversely  
 562 affect the lien and bond rights of lienors who are not in  
 563 privity with the owner. This section does not apply when the  
 564 owner is a contractor licensed under chapter 489 or is a person  
 565 who created parcels or offers parcels for sale or lease in the  
 566 ordinary course of business.

567           Section 3. Paragraph (c) of subsection (2) of section  
 568 713.06, Florida Statutes, is amended to read:

569           713.06 Liens of persons not in privity; proper payments.—  
 570           (2)

571           (c) The notice must ~~may~~ be in substantially the following  
 572 form and must include the information and the warning contained  
 573 in the following form:

574  
 575           WARNING! FLORIDA'S CONSTRUCTION LIEN LAW ALLOWS SOME  
 576 UNPAID CONTRACTORS, SUBCONTRACTORS, AND MATERIAL  
 577 SUPPLIERS TO FILE LIENS AGAINST YOUR PROPERTY EVEN IF  
 578 YOU HAVE MADE PAYMENT IN FULL.

579  
 580 UNDER FLORIDA LAW, YOUR FAILURE TO MAKE SURE THAT WE ARE PAID  
 581 MAY RESULT IN A LIEN AGAINST YOUR PROPERTY AND YOUR PAYING  
 582 TWICE.

583           TO PROTECT YOURSELF, EACH TIME YOU MAKE A PAYMENT TO THE  
 584 CONTRACTOR, ASK YOUR CONTRACTOR TO PROVIDE YOU WITH A WRITTEN  
 585 WAIVER AND RELEASE OF LIEN. FOR ADDITIONAL INFORMATION, REFER TO  
 586 THE GENERAL STATEMENT OF OWNER'S RIGHTS AND RESPONSIBILITIES,  
 587 WHICH WAS PROVIDED TO YOU BY YOUR CONTRACTOR AT THE BEGINNING OF  
 588 YOUR CONSTRUCTION PROJECT. AVOID A LIEN AND PAYING TWICE, YOU

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589 ~~MUST OBTAIN A WRITTEN RELEASE FROM US EVERY TIME YOU PAY YOUR~~  
 590 ~~CONTRACTOR.~~

591 NOTICE TO OWNER

592  
 593 To ... (Owner's name and address) ...

594  
 595 The undersigned hereby informs you that he or she has furnished  
 596 or is furnishing services or materials as follows:

597 ... (General description of services or materials) ... for the  
 598 improvement of the real property identified as ... (property  
 599 description) ... under an order given by.....

600  
 601 Florida law prescribes the serving of this notice and restricts  
 602 your right to make payments under your contract in accordance  
 603 with Section 713.06, Florida Statutes.

604 IMPORTANT INFORMATION FOR  
 605 YOUR PROTECTION

606  
 607 Under Florida's laws, those who work on your property or  
 608 provide materials and are not paid have a right to enforce their  
 609 claim for payment against your property. This claim is known as  
 610 a construction lien.

611 If your contractor fails to pay subcontractors or material  
 612 suppliers or neglects to make other legally required payments,  
 613 the people who are owed money may look to your property for  
 614 payment, EVEN IF YOU HAVE PAID YOUR CONTRACTOR IN FULL.

615  
 616 PROTECT YOURSELF:



645  
 646 The undersigned hereby gives notice that improvement will be  
 647 made to certain real property, and in accordance with Chapter  
 648 713, Florida Statutes, the following information is provided in  
 649 this Notice of Commencement.

650 1. Description of property: ...(legal description of the  
 651 property, and street address if available)....

652 2. General description of improvement:.....

653 3. Owner information:.....

654 a. Name and address:.....

655 b. Interest in property:.....

656 c. Name and address of fee simple titleholder (if other  
 657 than Owner):.....

658 4.a. Contractor:...(name and address)....

659 b. Contractor's phone number:.....

660 5. Surety: ...(a copy of the payment bond is attached, if  
 661 the project is bonded)....

662 a. Name and address:.....

663 b. Phone number:.....

664 c. Amount of bond: \$.....

665 6.a. Lender: ...(name and address)....

666 b. Lender's phone number:.....

667 7.a. Persons within the State of Florida designated by  
 668 Owner upon whom notices or other documents may be served as  
 669 provided by Section 713.13(1)(a)7., Florida Statutes: ...(name  
 670 and address)....

671 b. Phone numbers of designated persons:.....

672 8.a. In addition to himself or herself, Owner designates



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673 ..... of ..... to receive a copy of the Lienor's  
 674 Notice as provided in Section 713.13(1)(b), Florida Statutes.

675 b. Phone number of person or entity designated by  
 676 owner:.....

677 9. Expiration date of notice of commencement (the  
 678 expiration date is 1 year from the date of recording unless a  
 679 later ~~different~~ date is specified).....

680  
 681 WARNING TO OWNER: IF THIS NOTICE OF COMMENCEMENT WILL EXPIRE  
 682 BEFORE ALL WORK IS COMPLETED AND FINAL PAYMENT IS MADE, THE  
 683 EXPIRATION DATE MUST BE EXTENDED. ANY PAYMENTS MADE BY THE OWNER  
 684 AFTER THE EXPIRATION OF THE NOTICE OF COMMENCEMENT ARE  
 685 CONSIDERED IMPROPER PAYMENTS UNDER CHAPTER 713, PART I, SECTION  
 686 713.13, FLORIDA STATUTES, AND CAN RESULT IN YOUR PAYING TWICE  
 687 FOR IMPROVEMENTS TO YOUR PROPERTY. A NOTICE OF COMMENCEMENT MUST  
 688 BE RECORDED AND POSTED ON THE JOB SITE BEFORE THE FIRST  
 689 INSPECTION. IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR  
 690 LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR RECORDING YOUR  
 691 NOTICE OF COMMENCEMENT.

692  
 693 Under penalty of perjury, I declare that I have read the  
 694 foregoing notice of commencement and that the facts stated  
 695 therein are true to the best of my knowledge and belief.

696  
 697 ... (Signature of Owner or Owner's Authorized  
 698 Officer/Director/Partner/Manager) ...

699  
 700 ... (Signatory's Title/Office) ...

701  
 702 The foregoing instrument was acknowledged before me this ....  
 703 day of ....., ... (year)...., by ... (name of person)... as ... (type  
 704 of authority, ...e.g. officer, trustee, attorney in fact)... for  
 705 ... (name of party on behalf of whom instrument was executed)....  
 706  
 707 ... (Signature of Notary Public - State of Florida)...

708  
 709 ... (Print, Type, or Stamp Commissioned Name of Notary Public)...

710  
 711 Personally Known .... OR Produced Identification ....

712  
 713 Type of Identification Produced.....

714  
 715 ~~Verification pursuant to Section 92.525, Florida Statutes.~~

716  
 717 ~~Under penalties of perjury, I declare that I have read the~~  
 718 ~~foregoing and that the facts stated in it are true to the best~~  
 719 ~~of my knowledge and belief.~~

720  
 721 ~~... (Signature of Natural Person Signing Above)...~~

722 Section 5. Section 713.135, Florida Statutes, is amended  
 723 to read:

724 713.135 Notice of commencement and applicability of lien.-

725 (1) When a ~~any~~ person applies for a building permit, the  
 726 authority issuing such permit shall:

727 (a) Require the applicant to submit the signed and dated  
 728 general statement of an owner's rights and responsibilities

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729 under Florida's Construction Lien Law provided in s. 713.015 for  
730 any single-family or multifamily residential dwelling up to and  
731 including four units. A building permit application may not be  
732 processed unless the signed document is in the file.

733 (b)(a) Print on the face of each permit card in no less  
734 than 14-point, capitalized, boldfaced type: "WARNING TO OWNER:  
735 IF YOU FAIL YOUR FAILURE TO RECORD A NOTICE OF COMMENCEMENT, YOU  
736 MAY PAY RESULT IN YOUR PAYING TWICE FOR IMPROVEMENTS TO YOUR  
737 PROPERTY. A NOTICE OF COMMENCEMENT, AND THE CONTRACTOR'S PAYMENT  
738 BOND IF THE PROJECT IS BONDED, MUST BE RECORDED AND POSTED ON  
739 THE JOB SITE BEFORE THE FIRST INSPECTION. IF YOU INTEND TO  
740 OBTAIN FINANCING, CONSULT WITH YOUR LENDER OR AN ATTORNEY BEFORE  
741 RECORDING YOUR NOTICE OF COMMENCEMENT."

742 (c)(b) Make available to ~~Provide~~ the applicant and the  
743 owner of the real property upon which improvements are to be  
744 constructed copies of the general statement of an owner's rights  
745 and responsibilities under Florida's ~~with a printed statement~~  
746 ~~stating that the right, title, and interest of the person who~~  
747 ~~has contracted for the improvement may be subject to attachment~~  
748 ~~under the Construction Lien Law, as described in s. 713.015,~~  
749 along with a statutory notice of commencement form. The issuing  
750 authority may make the general statement and form available in  
751 printed form or on the Internet or both. The Department of  
752 ~~Business and Professional Regulation shall furnish, for~~  
753 ~~distribution, the statement described in this paragraph, and the~~  
754 ~~statement must be a summary of the Construction Lien Law and~~  
755 ~~must include an explanation of the provisions of the~~  
756 ~~Construction Lien Law relating to the recording, and the posting~~

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757 ~~of copies, of notices of commencement and a statement~~  
758 ~~encouraging the owner to record a notice of commencement and~~  
759 ~~post a copy of the notice of commencement in accordance with s.~~  
760 ~~713.13. The statement must also contain an explanation of the~~  
761 ~~owner's rights if a lienor fails to furnish the owner with a~~  
762 ~~notice as provided in s. 713.06(2) and an explanation of the~~  
763 ~~owner's rights as provided in s. 713.22. The authority that~~  
764 ~~issues the building permit must obtain from the Department of~~  
765 ~~Business and Professional Regulation the statement required by~~  
766 ~~this paragraph and must mail, deliver by electronic mail or~~  
767 ~~other electronic format or facsimile, or personally deliver that~~  
768 ~~statement to the owner or, in a case in which the owner is~~  
769 ~~required to personally appear to obtain the permit, provide that~~  
770 ~~statement to any owner making improvements to real property~~  
771 ~~consisting of a single or multiple family dwelling up to and~~  
772 ~~including four units. However, the failure by the authorities to~~  
773 ~~provide the summary does not subject the issuing authority to~~  
774 ~~liability.~~

775 ~~(c) In addition to providing the owner with the statement~~  
776 ~~as required by paragraph (b), inform each applicant who is not~~  
777 ~~the person whose right, title, and interest is subject to~~  
778 ~~attachment that, as a condition to the issuance of a building~~  
779 ~~permit, the applicant must promise in good faith that the~~  
780 ~~statement will be delivered to the person whose property is~~  
781 ~~subject to attachment.~~

782 ~~(d) Furnish to the applicant two or more copies of a form~~  
783 ~~of notice of commencement conforming with s. 713.13. If the~~  
784 ~~direct contract is greater than \$2,500, the applicant shall file~~

785 ~~with the issuing authority prior to the first inspection either~~  
 786 ~~a certified copy of the recorded notice of commencement or a~~  
 787 ~~notarized statement that the notice of commencement has been~~  
 788 ~~filed for recording, along with a copy thereof. In the absence~~  
 789 ~~of the filing of a certified copy of the recorded notice of~~  
 790 ~~commencement, the issuing authority or a private provider~~  
 791 ~~performing inspection services may not perform or approve~~  
 792 ~~subsequent inspections until the applicant files by mail,~~  
 793 ~~facsimile, hand delivery, or any other means such certified copy~~  
 794 ~~with the issuing authority. The certified copy of the notice of~~  
 795 ~~commencement must contain the name and address of the owner, the~~  
 796 ~~name and address of the contractor, and the location or address~~  
 797 ~~of the property being improved. The issuing authority shall~~

798 (d) Verify that the name and address of the owner, the  
 799 name of the contractor, and the location or address of the  
 800 property being improved, which are ~~is~~ contained in the certified  
 801 copy of the notice of commencement, are ~~is~~ consistent with the  
 802 information in the building permit application.

803 (e) Provide the recording information from the official  
 804 public records in which the notice of commencement and payment  
 805 bond, if any, are recorded to any person upon request. The  
 806 ~~issuing authority shall provide the recording information on the~~  
 807 ~~certified copy of the recorded notice of commencement to any~~  
 808 ~~person upon request. This subsection does not require the~~  
 809 ~~recording of a notice of commencement prior to the issuance of a~~  
 810 ~~building permit. If a local government requires a separate~~  
 811 ~~permit or inspection for installation of temporary electrical~~  
 812 ~~service or other temporary utility service, land clearing, or~~

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813 ~~other preliminary site work, such permits may be issued and such~~  
814 ~~inspections may be conducted without providing the issuing~~  
815 ~~authority with a certified copy of a recorded notice of~~  
816 ~~commencement or a notarized statement regarding a recorded~~  
817 ~~notice of commencement. This subsection does not apply to a~~  
818 ~~direct contract to repair or replace an existing heating or air-~~  
819 ~~conditioning system in an amount less than \$7,500.~~

820 (f) ~~(e)~~ Not require that a notice of commencement be  
821 recorded as a condition of the application for, or processing or  
822 issuance of, a building permit. ~~However, this paragraph does not~~  
823 ~~modify or waive the inspection requirements set forth in this~~  
824 ~~subsection.~~

825 (g) Not require that a notice of commencement be recorded  
826 or provided for those projects described in s. 713.137(2).

827 (2) An issuing authority under subsection (1) is not  
828 liable in any civil action for the failure of the person whose  
829 property is subject to attachment to receive or to be delivered  
830 the general statement of an owner's rights and responsibilities  
831 under Florida's ~~a printed statement stating that the right,~~  
832 ~~title, and interest of the person who has contracted for the~~  
833 ~~improvement may be subject to attachment under the Construction~~  
834 Lien Law as provided in s. 713.015.

835 (3) An issuing authority under subsection (1) is not  
836 liable in any civil action for the failure to verify that a  
837 certified copy of the recorded notice of commencement has been  
838 filed in accordance with this section.

839 (4) The several boards of county commissioners, municipal  
840 councils, or other similar bodies may by ordinance or resolution

841 | establish reasonable fees for furnishing, upon request, copies  
 842 | of the forms and the printed statement provided in paragraph  
 843 | (1) (a) ~~paragraphs (1) (b) and (d)~~ in an amount not to exceed \$5  
 844 | to be paid by the applicant for each permit in addition to all  
 845 | other costs of the permit; ~~however, no forms or statement need~~  
 846 | ~~be furnished, mailed, or otherwise provided to, nor may such~~  
 847 | ~~additional fee be obtained from, applicants for permits in those~~  
 848 | ~~cases in which the owner of a legal or equitable interest~~  
 849 | ~~(including that of ownership of stock of a corporate landowner)~~  
 850 | ~~of the real property to be improved is engaged in the business~~  
 851 | ~~of construction of buildings for sale to others and intends to~~  
 852 | ~~make the improvements authorized by the permit on the property~~  
 853 | ~~and upon completion will offer the improved real property for~~  
 854 | ~~sale.~~

855 |         (5) In addition to any other information required by the  
 856 | authority issuing the permit, each building permit application  
 857 | must contain:

858 |             (a) The name and address of the owner of the real  
 859 | property;

860 |             (b) The name and address of the contractor;

861 |             (c) A description sufficient to identify the real property  
 862 | to be improved; and

863 |             (d) The number or identifying symbol assigned to the  
 864 | building permit by the issuing authority, which ~~number or symbol~~  
 865 | must be affixed to the application by the issuing authority.

866 |         (6) (a) In addition to any other information required by  
 867 | the authority issuing the permit, the building permit  
 868 | application must be in substantially the following form:

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869  
870  
871  
872  
873  
874  
875  
876  
877  
878  
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890  
891  
892  
893  
894  
895  
896

Tax Folio No.....

BUILDING PERMIT APPLICATION

Owner's Name

Owner's Address

Fee Simple Titleholder's Name (If other than owner)

Fee Simple Titleholder's Address (If other than owner)

City

State..... Zip.....

Contractor's Name

Contractor's Address

City

State..... Zip.....

Job Name

Job Address

City..... County.....

Legal Description

Bonding Company

Bonding Company Address

City..... State.....

Architect/Engineer's Name

Architect/Engineer's Address

Mortgage Lender's Name

Mortgage Lender's Address

Application is hereby made to obtain a permit to do the  
work and installations as indicated. I certify that no work or



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897 installation has commenced prior to the issuance of a permit and  
 898 that all work will be performed to meet the standards of all  
 899 laws regulating construction in this jurisdiction. I understand  
 900 that a separate permit must be secured for ELECTRICAL WORK,  
 901 PLUMBING, SIGNS, WELLS, POOLS, FURNACES, BOILERS, HEATERS,  
 902 TANKS, and AIR CONDITIONERS, etc.

903  
 904 OWNER'S AFFIDAVIT: I certify that all the foregoing information  
 905 is accurate and that all work will be done in compliance with  
 906 all applicable laws regulating construction and zoning.

907  
 908 WARNING TO OWNER: IF YOU FAIL ~~YOUR FAILURE~~ TO RECORD A  
 909 NOTICE OF COMMENCEMENT, YOU MAY PAY ~~RESULT IN YOUR~~  
 910 ~~PAYING~~ TWICE FOR IMPROVEMENTS TO YOUR PROPERTY. A  
 911 NOTICE OF COMMENCEMENT, AND THE CONTRACTOR'S PAYMENT  
 912 BOND IF THE PROJECT IS BONDED, MUST BE RECORDED AND  
 913 POSTED ON THE JOB SITE BEFORE THE FIRST INSPECTION.

914  
 915 IF YOU INTEND TO OBTAIN FINANCING, CONSULT WITH YOUR  
 916 LENDER OR AN ATTORNEY BEFORE COMMENCING WORK OR  
 917 RECORDING YOUR NOTICE OF COMMENCEMENT.

918  
 919 ... (Signature of Owner or Agent) ...

920  
 921 ... (including contractor) ...

922 STATE OF FLORIDA

923 COUNTY OF ....

924

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925 Sworn to (or affirmed) and subscribed before me this ....  
926 day of ....., ...(year)...., by ...(name of person making  
927 statement)....

928  
929 ...(Signature of Notary Public - State of Florida)...  
930 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

931  
932 Personally Known .... OR Produced Identification ....

933  
934 Type of Identification Produced.....  
935 ...(Signature of Contractor)...

936  
937 STATE OF FLORIDA  
938 COUNTY OF ....

939  
940 Sworn to (or affirmed) and subscribed before me this ....  
941 day of ....., ...(year)...., by ...(name of person making  
942 statement)....

943 ...(Signature of Notary Public - State of Florida)...  
944 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

945  
946 Personally Known .... OR Produced Identification ....

947  
948 Type of Identification Produced.....  
949 (Certificate of Competency Holder)

950  
951 Contractor's State Certification or Registration No.....

952

953 Contractor's Certificate of Competency No.....

954

955 APPLICATION APPROVED BY

956 .....Permit Officer

957 (b) Consistent with the requirements of paragraph (a), an  
 958 authority responsible for issuing building permits under this  
 959 section may accept a building permit application in an  
 960 electronic format, as prescribed by the authority. Building  
 961 permit applications submitted to the authority electronically  
 962 must contain the following additional statement in lieu of the  
 963 requirement in paragraph (a) that a signed, sworn, and notarized  
 964 signature of the owner or agent and the contractor be part of  
 965 the owner's affidavit:

966

967 OWNER'S ELECTRONIC SUBMISSION STATEMENT: Under penalty of  
 968 perjury, I declare that all the information contained in this  
 969 building permit application is true and correct.

970 (c) An authority responsible for issuing building permit  
 971 applications which accepts building permit applications in an  
 972 electronic format shall provide public Internet access to the  
 973 electronic building permit applications in a searchable format.

974 (7) This section applies to every municipality and county  
 975 in the state which now has or hereafter may have a system of  
 976 issuing building permits for the construction of improvements or  
 977 for the alteration or repair of improvements on or to real  
 978 property located within the geographic limits of the issuing  
 979 authority.

980 Section 6. Section 713.137, Florida Statutes, is created

981 to read:

982 713.137 Prerequisites to inspection of improvements;  
 983 exceptions.-

984 (1) The authority issuing a building permit or a private  
 985 provider performing inspection services may not inspect the real  
 986 property being improved unless:

987 (a) The following documents have been filed with the  
 988 issuing authority:

989 1.a. A certified copy of the recorded notice of  
 990 commencement; or

991 b. A notarized statement that the notice of commencement  
 992 has been filed for recording, along with a copy of the notice.

993 2. If the permit is for a commercial project:

994 a. A copy of the contractor's recorded payment bond; or

995 b. A notarized statement of the contractor or owner  
 996 stating that a payment bond was not required.

997 3. A signed copy of the general statement of owner's  
 998 rights and responsibilities under Florida's Construction Lien  
 999 Law, if required by s. 713.015.

1000 (b) The information in the notice of commencement filed  
 1001 with the issuing authority has been verified by the issuing  
 1002 authority to be legible, complete, and consistent with the  
 1003 building permit application.

1004 (2) This section does not apply to inspections of the  
 1005 following improvements:

1006 (a) The installation of temporary electrical service or  
 1007 other temporary utility service, land clearing, or other  
 1008 preliminary site work.

1009           (b) Improvements pursuant to a direct contract in an  
 1010 amount of \$5,000 or less.

1011           (c) The repair or replacement of a heating or air-  
 1012 conditioning system pursuant to a direct contract in an amount  
 1013 of \$7,500 or less.

1014           (d) The installation of a solar hot water system pursuant  
 1015 to a direct contract in an amount of \$7,500 or less.

1016           Section 7. Section 713.16, Florida Statutes, is amended to  
 1017 read:

1018           713.16 Demand for copy of contract and statements of  
 1019 account; form.—

1020           (1) A copy of the contract of a lienor or owner and a  
 1021 statement of the amount due or to become due if fixed or  
 1022 ascertainable thereon must be furnished by any party thereto,  
 1023 upon written demand of an owner or a lienor contracting with or  
 1024 employed by the other party to such contract. If the owner or  
 1025 lienor refuses or neglects to furnish such copy of the contract  
 1026 or such statement, or willfully and falsely states the amount  
 1027 due or to become due if fixed or ascertainable under such  
 1028 contract, any person who suffers any detriment thereby has a  
 1029 cause of action against the person refusing or neglecting to  
 1030 furnish the same or willfully and falsely stating the amount due  
 1031 or to become due for his or her damages sustained thereby. The  
 1032 information contained in such copy or statement furnished  
 1033 pursuant to such written demand is binding upon the owner or  
 1034 lienor furnishing it unless actual notice of any modification is  
 1035 given to the person demanding the copy or statement before such  
 1036 person acts in good faith in reliance on it. The person

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1037 demanding such documents must pay for the reproduction thereof;  
1038 and, if such person fails or refuses to do so, he or she is  
1039 entitled only to inspect such documents at reasonable times and  
1040 places.

1041 (2) The owner may serve in writing a demand of any lienor  
1042 for a written statement under oath of his or her account showing  
1043 the nature of the labor or services performed and to be  
1044 performed, if any, the materials furnished, the materials to be  
1045 furnished, if known, the amount paid on account to date, the  
1046 amount due, and the amount to become due, if known, as of the  
1047 date of the statement by the lienor. Any such demand to a lienor  
1048 must be served on the lienor at the address and to the attention  
1049 of any person who is designated to receive the demand in the  
1050 notice to owner served by such lienor and must include a  
1051 description of the project, including the names of the owner,  
1052 the contractor, and the lienor's customer, as set forth in the  
1053 lienor's notice to owner, sufficient for the lienor to properly  
1054 identify the account in question. The failure or refusal to  
1055 furnish the statement does not deprive the lienor of his or her  
1056 lien if the demand is not served at the address of the lienor or  
1057 directed to the attention of the person designated to receive  
1058 the demand in the notice to owner. The failure or refusal to  
1059 furnish the statement under oath within 30 days after the  
1060 demand, or the furnishing of a false or fraudulent statement,  
1061 deprives the person so failing or refusing to furnish such  
1062 statement of his or her lien. If the owner serves more than one  
1063 demand for statement of account on a lienor and none of the  
1064 information regarding the account has changed since the lienor's

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1065 last response to a demand, the failure or refusal to furnish  
 1066 such statement does not deprive the lienor of his or her lien.  
 1067 The negligent inclusion or omission of any information deprives  
 1068 the person of his or her lien to the extent the owner can  
 1069 demonstrate prejudice from such act or omission by the lienor.  
 1070 The failure to furnish a response to a demand for statement of  
 1071 account does not affect the validity of any claim of lien being  
 1072 enforced through a foreclosure case filed prior to the date the  
 1073 demand for statement is received by the lienor.

1074 (3) A request for sworn statement of account must be in  
 1075 substantially the following form:

1076 REQUEST FOR SWORN STATEMENT OF ACCOUNT

1077  
 1078 WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT, SIGNED  
 1079 UNDER OATH, WITHIN 30 DAYS OR THE FURNISHING OF A FALSE  
 1080 STATEMENT WILL RESULT IN THE LOSS OF YOUR LIEN.

1081  
 1082 To: ...(Lienor's name and address)...

1083  
 1084 The undersigned hereby demands a written statement under oath of  
 1085 his or her account showing the nature of the labor or services  
 1086 performed and to be performed, if any, the materials furnished,  
 1087 the materials to be furnished, if known, the amount paid on  
 1088 account to date, the amount due, and the amount to become due,  
 1089 if known, as of the date of the statement for the improvement of  
 1090 real property identified as .....(property description).....

1091 Name of contractor: .....

1092 Name of the lienor's customer (as specified in the lienor's





1121 | bond. If the contractor serves more than one demand for  
 1122 | statement of account on a lienor and none of the information  
 1123 | regarding the account has changed since the lienor's last  
 1124 | response to a demand, the failure or refusal to furnish such  
 1125 | statement does not deprive the lienor of his or her rights under  
 1126 | the bond. The negligent inclusion or omission of any information  
 1127 | deprives the person of his or her rights under the bond to the  
 1128 | extent the contractor can demonstrate prejudice from such act or  
 1129 | omission by the lienor. The failure to furnish a response to a  
 1130 | demand for statement of account does not affect the validity of  
 1131 | any claim on the bond being enforced in a lawsuit filed prior to  
 1132 | the date the demand for statement of account is received by the  
 1133 | lienor.

1134 |         (5) (a) Any lienor who submits or mails ~~has recorded~~ a  
 1135 | claim of lien to the clerk for recording may make written demand  
 1136 | on the owner for a written statement under oath showing:

1137 |             1. The amount of the direct contract under which the lien  
 1138 | was recorded;

1139 |             2. The dates and amounts paid or to be paid by or on  
 1140 | behalf of the owner for all improvements described in the direct  
 1141 | contract;

1142 |             3. The reasonable estimated costs of completing the direct  
 1143 | contract under which the lien was claimed pursuant to the scope  
 1144 | of the direct contract; and

1145 |             4. If known, the actual cost of completion.

1146 |         (b) Any owner who does not provide the statement within 30  
 1147 | days after demand, or who provides a false or fraudulent  
 1148 | statement, is not a prevailing party for purposes of an award of

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1149 attorney's fees under s. 713.29. The written demand must include  
 1150 the following warning in conspicuous type in substantially the  
 1151 following form:

1152           WARNING: YOUR FAILURE TO FURNISH THE REQUESTED STATEMENT  
 1153 WITHIN 30 DAYS OR THE FURNISHING OF A FALSE STATEMENT WILL  
 1154 RESULT IN THE LOSS OF YOUR RIGHT TO RECOVER ATTORNEY FEES IN ANY  
 1155 ACTION TO ENFORCE THE CLAIM OF LIEN OF THE PERSON REQUESTING  
 1156 THIS STATEMENT.

1157           (6) Any written demand served on the owner must include a  
 1158 description of the project, the names of the contractor and the  
 1159 lienor's customer, as set forth in the lienor's notice to owner,  
 1160 sufficient for the owner to properly identify the project in  
 1161 question.

1162           ~~(7)~~(6) For purposes of this section, the term  
 1163 "information" means the nature and quantity of the labor,  
 1164 services, and materials furnished or to be furnished by a lienor  
 1165 and the amount paid, the amount due, and the amount to become  
 1166 due on the lienor's account.

1167           Section 8. Section 713.18, Florida Statutes, is amended to  
 1168 read:

1169           713.18 Manner of serving notices and other instruments.—

1170           (1) Service of notices, claims of lien, affidavits,  
 1171 assignments, and other instruments permitted or required under  
 1172 this part, or copies thereof when so permitted or required,  
 1173 unless otherwise specifically provided in this part, must be  
 1174 made by one of the following methods:

1175           (a) By actual delivery to the person to be served; if a  
 1176 partnership, to one of the partners; if a corporation, to an

1177 officer, director, managing agent, or business agent; or, if a  
 1178 limited liability company, to a member or manager.

1179 (b) By sending the same by common carrier delivery service  
 1180 or by registered, global express guaranteed, or certified mail,  
 1181 with postage or shipping paid by the sender prepaid, and ~~or by~~  
 1182 ~~overnight or second-day delivery~~ with evidence of delivery,  
 1183 which may be in an electronic format.

1184 (c) ~~If the method specified in paragraph (a) or paragraph~~  
 1185 ~~(b) cannot be accomplished,~~ By posting on the site of the  
 1186 improvement if service as provided by paragraph (a) or paragraph  
 1187 (b) cannot be accomplished ~~premises.~~

1188 (2) Notwithstanding subsection (1), service of ~~if~~ a notice  
 1189 to owner, a notice to contractor under s. 713.23, or a  
 1190 preliminary notice under s. 255.05 is ~~mailed by registered or~~  
 1191 ~~certified mail with postage prepaid to the person to be served~~  
 1192 ~~at any of the addresses set forth in subsection (3) within 40~~  
 1193 ~~days after the date the lienor first furnishes labor, services,~~  
 1194 ~~or materials, service of that notice is~~ effective as of the date  
 1195 of mailing if:

1196 (a) The notice is mailed by registered, global express  
 1197 guaranteed, or certified mail, with postage prepaid, to the  
 1198 person to be served at any of the addresses set forth in  
 1199 subsection (3);

1200 (b) The notice is mailed within 40 days after the date the  
 1201 lienor first furnishes labor, services, or materials; and

1202 (c)1. The person who served the notice maintains a  
 1203 registered or certified mail log that shows the registered or  
 1204 certified mail number issued by the United States Postal

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1205 Service, the name and address of the person served, and the date  
 1206 stamp of the United States Postal Service confirming the date of  
 1207 mailing; or ~~if~~

1208 2. The person who served the notice maintains electronic  
 1209 tracking records generated through use of the United States  
 1210 Postal Service Confirm service or a similar service containing  
 1211 the postal tracking number, the name and address of the person  
 1212 served, and verification of the date of receipt by the United  
 1213 States Postal Service.

1214 (3)(a) Service of ~~If~~ an instrument ~~served~~ pursuant to this  
 1215 section is effective on the date of mailing if the instrument:

1216 1. Is sent to the last address shown in the notice of  
 1217 commencement or any amendment thereto or, in the absence of a  
 1218 notice of commencement, to the last address shown in the  
 1219 building permit application, or to the last known address of the  
 1220 person to be served; and, ~~is not received, but~~

1221 2. Is returned as being "refused," "moved, not  
 1222 forwardable," or "unclaimed," or is otherwise not delivered or  
 1223 deliverable through no fault of the person serving the item,  
 1224 ~~then service is effective on the date the instrument was sent.~~

1225 (b) If the address shown in the notice of commencement or  
 1226 any amendment to the notice, or, in the absence of a notice of  
 1227 commencement, in the building permit application, is incomplete  
 1228 for purposes of mailing or delivery, the person serving the item  
 1229 may complete the address and properly format it according to  
 1230 United States Postal Service addressing standards using  
 1231 information obtained from the property appraiser or another  
 1232 public record or directory without affecting the validity of

1233 service under this section.

1234 (4) A notice served by a lienor on one owner or one  
 1235 partner of a partnership owning the real property ~~If the real~~  
 1236 ~~property is owned by more than one person or a partnership, a~~  
 1237 ~~lienor may serve any notices or other papers under this part on~~  
 1238 ~~any one of such owners or partners, and such notice is deemed~~  
 1239 ~~notice to all owners and partners.~~

1240 Section 9. Section 713.22, Florida Statutes, is amended to  
 1241 read:

1242 713.22 Duration of lien.—

1243 (1) A ~~No~~ lien provided by this part does not shall  
 1244 continue for a longer period than 1 year after the claim of lien  
 1245 has been recorded or 1 year after the recording of an amended  
 1246 claim of lien that shows a later date of final furnishing of  
 1247 labor, services, or materials, unless within that time an action  
 1248 to enforce the lien is commenced in a court of competent  
 1249 jurisdiction. A lien that has been continued beyond the 1-year  
 1250 period ~~The continuation of the lien effected by the commencement~~  
 1251 ~~of an~~ the action is shall not enforceable be good against  
 1252 creditors or subsequent purchasers for a valuable consideration  
 1253 and without notice, unless a notice of lis pendens is recorded.

1254 (2) An owner or the owner's ~~agent or~~ attorney may elect to  
 1255 shorten the time prescribed in subsection (1) within which to  
 1256 commence an action to enforce any claim of lien or claim against  
 1257 a bond or other security under s. 713.23 or s. 713.24 by  
 1258 recording in the clerk's office a notice in substantially the  
 1259 following form:

1260 NOTICE OF CONTEST OF LIEN

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1261 To: ...(Name and address of lienor)...  
 1262 You are notified that the undersigned contests the claim of lien  
 1263 filed by you on ....., ...(year)..., and recorded in .... Book  
 1264 ....., Page ....., of the public records of .... County, Florida,  
 1265 and that the time within which you may file suit to enforce your  
 1266 lien is limited to 60 days from the date of service of this  
 1267 notice. This .... day of ....., ...(year).....

Signed: ...(Owner or Attorney)...

1270 The lien of any lienor upon whom such notice is served and who  
 1271 fails to institute a suit to enforce his or her lien within 60  
 1272 days after service of such notice shall be extinguished  
 1273 automatically. The owner or the owner's attorney ~~clerk~~ shall  
 1274 serve mail a copy of the notice of contest to the lien claimant  
 1275 at the address shown in the claim of lien or most recent  
 1276 amendment thereto and shall certify to such service on the face  
 1277 of such notice and record the notice. ~~Service shall be deemed~~  
 1278 ~~complete upon mailing.~~

1279 Section 10. Paragraphs (c), (d), and (e) of subsection (1)  
 1280 and subsections (2) and (4) of section 713.23, Florida Statutes,  
 1281 are amended to read:

1282 713.23 Payment bond.—

1283 (1)

1284 (c) Either before beginning or within 45 days after  
 1285 beginning to furnish labor, materials, or supplies, a lienor who  
 1286 is not in privity with the contractor, except a laborer, shall  
 1287 serve the contractor with notice in writing that the lienor will  
 1288 look to the contractor's bond for protection on the work. If a

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1289 notice of commencement is not recorded, or a reference to the  
 1290 bond is not given in the notice of commencement, and in either  
 1291 case if the lienor not in privity with the contractor is not  
 1292 otherwise notified in writing of the existence of the bond, the  
 1293 lienor not in privity with the contractor shall have 45 days  
 1294 from the date the lienor is notified of the existence of the  
 1295 bond within which to serve the notice. The notice must ~~may~~ be in  
 1296 substantially the following form:

1297  
 1298 NOTICE TO CONTRACTOR  
 1299

1300 To ... (name and address of contractor) ...  
 1301

1302 This notice is to inform you that the lienor identified below  
 1303 intends to look to the contractor's bond to secure payment for  
 1304 the furnishing of materials or services for the improvement of  
 1305 real property. These materials or services have been furnished  
 1306 or are being furnished to: ... (property description) ..., which  
 1307 is owned by: ... (owner's name and address) .... A general  
 1308 description of the materials or services is as follows:  
 1309 ... (general description of materials or services) .... The  
 1310 materials or services were ordered by: ... (lienor's  
 1311 customer) ....

1312  
 1313 ... (name of lienor) ...  
 1314 ... (signature of lienor or lienor's  
 1315 representative) ..... (date) ...  
 1316 ... (lienor's address) ...

1317  
 1318 ~~The undersigned notifies you that he or she has furnished or is~~  
 1319 ~~furnishing ... (services or materials) ... for the improvement of~~  
 1320 ~~the real property identified as ... (property description) ...~~  
 1321 ~~owned by ... (owner's name and address) ... under an order given~~  
 1322 ~~by .... and that the undersigned will look to the contractor's~~  
 1323 ~~bond for protection on the work.~~

1324  
 1325 ~~... (Lienor's signature and address) ...~~  
 1326

1327 (d) In addition, a lienor is required, as a condition  
 1328 precedent to recovery under the bond, to serve a written notice  
 1329 of nonpayment to the contractor and the surety ~~not later than 90~~  
 1330 ~~days after the final furnishing of labor, services, or materials~~  
 1331 ~~by the lienor. The notice of nonpayment must state, as of the~~  
 1332 ~~date of the notice, the nature of the labor or services~~  
 1333 ~~performed and to be performed, if any; the materials furnished;~~  
 1334 ~~the materials to be furnished, if known; the amount paid on~~  
 1335 ~~account to date; the amount due; the amount to become due, if~~  
 1336 ~~known; and the date that the notice to contractor, if any, was~~  
 1337 ~~served on the contractor. Any notice of nonpayment served by a~~  
 1338 ~~lienor who is not in privity with the contractor which includes~~  
 1339 ~~sums for retainage must specify the portion of the amount~~  
 1340 ~~claimed for retainage. The notice of nonpayment shall be a sworn~~  
 1341 ~~statement and may be served at any time during the progress of~~  
 1342 ~~the work or thereafter, but not later than 90 days after the~~  
 1343 ~~final furnishing of the labor, services, or materials by the~~  
 1344 ~~lienor or, with respect to rental equipment, not later than 90~~



1345 days after the date that the rental equipment was last on the  
 1346 job site available for use. This ~~A written~~ notice satisfies the  
 1347 ~~this~~ condition precedent with respect to the payment described  
 1348 in the notice of nonpayment, including unpaid finance charges  
 1349 due under the lienor's contract, and with respect to any other  
 1350 payments which become due to the lienor after the date of the  
 1351 notice of nonpayment. The time period for serving a written  
 1352 notice of nonpayment shall be measured from the last day of  
 1353 furnishing labor, services, or materials by the lienor and shall  
 1354 not be measured by other standards, such as the issuance of a  
 1355 certificate of occupancy or the issuance of a certificate of  
 1356 substantial completion. The failure of a lienor to receive  
 1357 retainage sums not in excess of 10 percent of the value of  
 1358 labor, services, or materials furnished by the lienor is not  
 1359 considered a nonpayment requiring the service of the notice  
 1360 provided under this paragraph. The notice under this paragraph  
 1361 must ~~may~~ be in substantially the following form:

NOTICE OF NONPAYMENT

1363 To: ... (name and address of contractor)...  
 1364 ... (name and address of surety)...

1366 This notice is to inform you that, as of the date of this  
 1367 notice, the lienor identified below has not been fully paid for  
 1368 furnishing labor, services, or materials for an improvement to  
 1369 real property. The labor, services, or materials have been  
 1370 furnished to: ... (property description)..., which is owned by:  
 1371 ... (owner's name and address).... A general description of the  
 1372 labor, services, or materials is as follows: ... (general

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1373 description of labor, services, or materials).... The labor,  
 1374 services, or materials were ordered by: ...(lienor's  
 1375 customer)....  
 1376  
 1377 The amount paid by ...(lienor's customer)... as of the date of  
 1378 this notice for the labor, services, or materials is: \$..... The  
 1379 total amount currently due and unpaid is \$....., with \$.... of  
 1380 that amount attributable to retainage.  
 1381  
 1382 You are further notified that the lienor identified below  
 1383 expects to furnish additional labor, services, or materials for  
 1384 the improvement ordered by the same customer. A general  
 1385 description of the additional labor, services, or materials is  
 1386 as follows: ...(general description of labor, services, or  
 1387 materials).... The additional amount expected to become due is:  
 1388 \$.....  
 1389  
 1390 If applicable, a notice to contractor pursuant to section  
 1391 713.23(1)(c), Florida Statutes, was served on ...(name of  
 1392 contractor)... on ...(date)....  
 1393  
 1394 ...(name of lienor)...  
 1395 ...(signature of lienor or lienor's  
 1396 representative).....(date)...  
 1397 ...(lienor's address)...  
 1398  
 1399 Sworn to (or affirmed) and subscribed before me this .... day of  
 1400 .... ,...(year).., by ...(name of person making statement)....

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1401 ...(Signature of Notary Public..... (Print, Type, or Stamp  
 1402 Commissioned Name of Notary Public)...

1404 Personally Known .... OR Produced ..... as identification.

1405 ~~To ...(name of contractor and address)...~~

1407 ~~...(name of surety and address)...~~

1409 ~~The undersigned notifies you that he or she has furnished~~  
 1410 ~~...(describe labor, services, or materials)...~~ ~~for the~~  
 1411 ~~improvement of the real property identified as ...(property~~  
 1412 ~~description).... The amount now due and unpaid is \$.....~~

1414 ~~...(signature and address of lienor)...~~

1416 (e) An ~~Ne~~ action for the labor or materials or supplies  
 1417 may not be instituted or prosecuted against the contractor or  
 1418 surety unless both notices have been given, if required by this  
 1419 section. An ~~Ne~~ action may not ~~shall~~ be instituted or prosecuted  
 1420 against the contractor or against the surety on the bond under  
 1421 this section after 1 year from the performance of the labor or  
 1422 completion of delivery of the materials and supplies. The time  
 1423 period for bringing an action against the contractor or surety  
 1424 on the bond shall be measured from the last day of furnishing  
 1425 labor, services, or materials by the lienor. The time period may  
 1426 ~~and shall~~ not be measured by other standards, such as the  
 1427 issuance of a certificate of occupancy or the issuance of a  
 1428 certificate of substantial completion. A contractor or the

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1429 contractor's ~~agent or~~ attorney may elect to shorten the  
 1430 ~~prescribed~~ time within which an action to enforce any claim  
 1431 against a payment bond ~~provided~~ under this section or s. 713.245  
 1432 must ~~may~~ be commenced at any time after a notice of nonpayment,  
 1433 if required, has been served for the claim by recording in the  
 1434 clerk's office a notice in substantially the following form:

1435 NOTICE OF CONTEST OF CLAIM

1436 AGAINST PAYMENT BOND

1437 To: ... (Name and address of lienor)...

1438 You are notified that the undersigned contests your notice  
 1439 of nonpayment, dated ....., ....., and served on the undersigned  
 1440 on ....., ....., and that the time within which you may file suit  
 1441 to enforce your claim is limited to 60 days from the date of  
 1442 service of this notice.

1443  
 1444 DATED on ....., .....

1445  
 1446 Signed: ... (Contractor or Attorney)...

1447  
 1448 The claim of any lienor upon whom the notice is served and who  
 1449 fails to institute a suit to enforce his or her claim against  
 1450 the payment bond within 60 days after service of the notice  
 1451 shall be extinguished automatically. The contractor or the  
 1452 contractor's attorney ~~clerk~~ shall serve ~~mail~~ a copy of the  
 1453 notice of contest to the lienor at the address shown in the  
 1454 notice of nonpayment or most recent amendment thereto and shall  
 1455 certify to such service on the face of the notice and record the  
 1456 notice. ~~Service is complete upon mailing.~~



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1485           (4) The provisions of s. 713.24(3) ~~shall~~ apply to bonds  
1486 under this section.

1487           Section 11. This act shall take effect October 1, 2011.